



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha12101526

██████████,
Complainant,

v.

NORTH CENTRAL INDUSTRIES, INC.,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred in this instance. 910 IAC 1-3-2(b).

On July 7, 2012, ██████████ ("Complainant") filed a Complaint with the Commission against North Central Industries, Inc. ("Respondent") alleging discrimination on the basis of disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) and ██████████. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was denied a reasonable accommodation for and ultimately terminated because of her disability. In order to prevail, Complainant must show that: (1) she had or was regarded as having an impairment that could be perceived as limiting a major life activity; (2) she could perform the essential functions of the job, with or without a reasonable accommodation; (3) Respondent knew or should have known of Complainant's need for a reasonable accommodation; and (4) Respondent refused to consider Complainant's needs and denied a reasonable accommodation without showing a undue hardship.

For purposes of this analysis, it is assumed that Complainant's panic disorder constitutes a disability as the term is contemplated by the Indiana Civil Rights Law. In January 2012, Complainant had a conversation with the President/ Owner of Respondent, ██████████, regarding the limitations imposed by her disability. The evidence shows that Complainant expressed her need to



travel with a “safe person,” in this case, her husband, in order to keep her symptoms under control. In the past, Respondent allowed Complainant to bring her husband on business related trips; however, in fiscal year 2012, Respondent denied Complainant’s request for this accommodation. Specifically, the evidence collaborates that Respondent would not pay for Complainant’s husband to travel to the Winter APA Convention nor allow Complainant to pay for her husband to accompany her. Nevertheless, evidence shows that Respondent allowed two other non-disabled staff members, [REDACTED] and [REDACTED], to attend the same convention with their “significant others” while denying Complainant the ability to attend with her husband. Thus, the record shows that Respondent treated non-disabled employees more favorably under similar circumstances and Complainant’s request would not have created an undue hardship for Respondent.

Moreover, evidence of a discussion between Complainant and [REDACTED] indicates that [REDACTED] was hostile toward Complainant because of her disability. The evidence submitted shows that Respondent did not appreciate the necessity of Complainant’s request and likely terminated her because of that request. Thus, the evidence supports Complainant’s claim that Respondent’s rationale for terminating her was merely pretext for discrimination on the basis of disability. As such, based upon the aforementioned findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission’s Administrative Law Judge will hear this matter. Ind. Code 22-9-1-16, 910 IAC 1-3-6.

May 13, 2013

Date

Akia A. Haynes, Esq.,
Deputy Director
Indiana Civil Rights Commission